

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:07CR33

UNITED STATES OF AMERICA

VS.

JOHN WILSON PATTON

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AMENDED ORDER

THIS MATTER is before the Court *sua sponte* to amend the previous Order, filed February 1, 2008, which provided that the sentencing of Defendant be continued pending evaluation “by at least one qualified *psychiatrist* pursuant to 18 U.S.C. § 4241(b) and Fed. R. Crim. P. 12.2 to determine if the Defendant was, at the time he entered his not guilty plea and decided to proceed to trial, then insane or otherwise so mentally incompetent as to be unable to understand the criminal proceedings against him, to understand the consequences of entering a plea of not guilty and proceeding to trial, or to properly assist in his defense during the course of trial.” **Order, filed February 1, 2008, at 2 (emphasis added).**

The Bureau of Prisons has advised the Court that no *psychiatrist* is available to evaluate Defendant, but that *psychologists* are readily available to do so. In light of the fact that the enabling statutes, 18 U.S.C. § 4241(b) and Fed. R. Crim. P. 12.2, give the Court discretion as to whether to appoint a psychologist or a psychiatrist, the Court will alter its previous Order to allow Defendant to be evaluated by a psychologist.

IT IS, THEREFORE, ORDERED that the Court's Order of February 1, 2008, is hereby amended as follows:

1. The last full sentence on page 2 is amended to state, "At that point, the Court continued the sentencing hearing and directed the Defendant to undergo a *mental health evaluation*."
2. The first ordering paragraph on page 2 is amended to state, "The Defendant shall be examined by at least one qualified *psychologist* pursuant to 18 U.S.C. § 4241(b) and Fed. R. Crim. P. 12.2[.]"
3. The second ordering paragraph on Page 4 is amended to state, "the *psychologist*, as designated by the Attorney General to examine the Defendant[.]"

IT IS FURTHER ORDERED that the Clerk transmit this Order electronically to Defendant's counsel, the United States Attorney, the

United States Marshal, the United States Probation Office, and by facsimile transmission to the attention of Michelle Fuseyamore of the Bureau of Prisons, at telephone number 301/317-3132.

Signed: April 3, 2008

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge



SEALED DOCUMENT with access to All Parties/Defendants